

10/501 849  
7-16-04  
**Translation**

PATENT COOPERATION TREATY

PCT/EP2003/000295



**PCT**

**INTERNATIONAL PRELIMINARY EXAMINATION REPORT**

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference ht-su-10-wo	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/000295	International filing date (day/month/year) 14 January 2003 (14.01.2003)	Priority date (day/month/year) 16 January 2002 (16.01.2002)
International Patent Classification (IPC) or national classification and IPC B65D 81/32		
Applicant BELTANE NATURKOST		

<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u>3</u> sheets.</p>	
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the report</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>	

Date of submission of the demand 18 July 2003 (18.07.2003)	Date of completion of this report 02 April 2004 (02.04.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/000295

## I. Basis of the report

## 1. With regard to the elements of the international application:\*

- ☐ the international application as originally filed
- ☒ the description:  
pages 1-16, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, as amended (together with any statement under Article 19  
pages \_\_\_\_\_, filed with the demand  
pages 1-14, filed with the letter of 17 March 2004 (17.03.2004)
- ☐ the drawings:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 03/00295

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

## 1. Statement

Novelty (N)	Claims	9-14	YES
	Claims	1-8	NO
Inventive step (IS)	Claims	9-13	YES
	Claims	1-8, 14	NO
Industrial applicability (IA)	Claims	1-14	YES
	Claims		NO

## 2. Citations and explanations

## 1. Reference is made to the following documents:

- D1: EP-A-0 087 667 (NESTLE SA) 7 September 1983  
(1983-09-07)
- D2: PATENT ABSTRACTS OF JAPAN, Vol. 1998, No. 02,  
30 January 1998 (1998-01-30) & JP 09 278047 A  
(RISUPATSUKU KK), 28 October 1997 (1997-10-28)
- D3: PATENT ABSTRACTS OF JAPAN, Vol. 018, No. 553  
(C-1263), 21 October 1994 (1994-10-21) &  
JP 06 197681 A (KIRA SHOKUHHN KK), 19 July 1994  
(1994-07-19)
- D4: DATABASE WPI Section Ch, Week 199531 Derwent  
Publications Ltd., London, GB; Class B04, AN  
1995-232169 XP002236496 & CN 1 088 059 A (JIN  
C), 22 June 1994 (1994-06-22)

2. With regard to the wording of claim 1, it should be noted that the features "to be cooked and/or solubilised in aqueous phase" and "to be solubilised in cooking oil and/or cooking fat" do not formally restrict the scope of the claim, since these statements merely specify the component(s) in question but not, in appropriate manner, how they are processed in practice. The proposed processing

steps are not inherent in the product and are not therefore to be regarded as technical features of the claimed product. Both statements are therefore irrelevant to the assessment with regard to novelty.

By contrast, in the method defined in the new claim 9 (formerly claim 17) both a flavouring step and solubilisation are claimed as practical method steps which, as technical features, restrict the scope of the claim.

3. D1 discloses (claims 1, 2, 5; examples 17-20) a dry, packaged part-prepared meal, wherein dried and salted vegetables (batch 1) and a fat-containing mixture of dried herbs (batch 2) are prepacked in a mutually separate manner.

Also disclosed is a method (example 17) wherein a mixture of various salted and flavoured vegetables (batch 1) is cooked and a fat-containing mixture of dried herbs (batch 2) is then added thereto.

The subject matter of claim 1 is not therefore novel (PCT Article 33(2)).

4. D2 discloses a container for noodles which also incorporates two bags containing spices and seasoning in the form of a sauce.

From the nature of the product it can be deduced that its method of preparation involves cooking the noodles with the spices in water and then adding the sauce.

The subject matter of claim 1 is not therefore novel

(PCT Article 33(2)).

5. D3 discloses a pack incorporating both small pieces of dried burdock root (3) and individual small packs containing soy sauce (4), sesame seeds (5) and a pepper spice (6).

The subject matter of claim 1 is not therefore novel (PCT Article 33(2)).

6. D4 discloses two separately prepacked medicinal condiment mixtures for the preparation of a meat stew.

The subject matter of claim 1 is not therefore novel (PCT Article 33(2)).

7. The use of a part-prepared meal according to claims 1-3 for the preparation of a meal in vending machines, as proposed in claim 14 of the present application, is immediately obvious to a person skilled in the art and is not therefore inventive (PCT Article 33(3)).

8. Dependent claims 2-8 do not contain any features which in combination with the features of claim 1, to which they refer back, satisfy the PCT novelty and inventive step requirements. The reasons are as follows.

Each of the above dependent claims concerns a minor modification of the product defined in claim 1, of the kind that a person skilled in the art routinely makes on the basis of familiar considerations, especially since the resulting advantages are

readily foreseeable.

9. EP 0087667, which is considered to be the closest prior art, discloses (cf. claims 1, 2, 5; examples 17-20) a method from which the subject matter of claim 9 differs in that the ingredients of the second batch are heated with fat or oil.

This method step results in the development of a more intense flavour when the flavoured fat is added to the other ingredients.

The problem addressed by the present invention can therefore be considered that of providing dry part-prepared meals from which gourmet meals can be quickly and simply prepared.

The solution to this problem as proposed in claim 9 of the present application is not disclosed in or suggested by the prior art and therefore involves an inventive step (PCT Article 33(3)).

Claims 10-13 are dependent on claim 9 and therefore likewise satisfy the PCT novelty and inventive step requirements.